REMARKS

This Amendment is fully responsive to the final Office Action dated February 10, 2009, issued in connection with the above-identified application. A request for continued examination (RCE) accompanies this Amendment. Claims 1 and 3-25 were previously pending in the present application. With this Amendment, claims 1, 4-7, 9-25 have been amended; and claims 3 and 8 have been canceled without prejudice or disclaimer to the subject matter therein. Accordingly, claims 1, 4-7 and 9-25 remain pending in the present application. No new matter has been introduced by the amendments made to the claims. Favorable reconsideration is respectfully requested.

In the Office Action, the Examiner identified various "intended use" and "optional language" issues in the claims. First, the Examiner objects to the phrase "operable to" as "intended use." The Applicants have amended the claims to replace the phrase "operable to" with the phrase "configured to." The Applicants note the "configured to" has been found acceptable by U.S. Examiners in the past and, in some instances, U.S. Examiners have requested replacement of the phrase "operable to" with the phrase "configured to."

Second, the Examiner has also objected to the "when clauses" used in the claims as "optional language." However, the Applicants assert that the phrases noted by the Examiner are more accurately "function limitations" that attempt to define something by what it does, rather than by what it is. There is nothing inherently wrong with defining some part of an invention in functional terms. Functional language does not, in and of itself, render a claim improper. *In re Swinehart*, 439 F.2d 210, 169 USPQ 226 (CCPA 1971).

Additionally, a functional limitation <u>must</u> be evaluated and considered, just like any other limitation of the claim, for what it fairly conveys to a person of ordinary skill in the pertinent art in the context in which it is used. *Innova/Pure Water Inc. v. Safari Water Filtration Sys. Inc.*, 381 F.3d 1111, 1117-20, 72 USPQ2d 1001, 1006-08 (Fed. Cir. 2004). (See also MPEP 2173.05(g)).

Accordingly, withdrawal of the objection to the claims and reconsideration of all the limitations are respectfully requested.

14

In the Office Action, claims 21 and 22 have been rejected under 35 U.S.C. 112, second paragraph, as being indefinite. Claims 21 and 22 have been amended to address the issues identified by the Examiner under 35 U.S.C. 112, second paragraph. Withdrawal of the rejection under 35 U.S.C. 112, second paragraph, is now respectfully requested.

In the Office Action, claims 22 and 23 have been rejected under 35 U.S.C. 101 for allegedly being directed to non-statutory subject matter. Specifically, the Examiner alleges that claims 22 and 23 are directed to a program without a required computer-readable medium storing the program. The Applicants have amended claims 22 and 23 to point out that the programs in the claims are stored on "a computer-readable storage medium," as suggested by the Examiner. Withdrawal of the rejection to claims 22 and 23 under 35 U.S.C. 101 is now respectfully requested.

In the Office Action, claims 1 and 3-25 have been rejected under 35 U.S.C. 103(a) as being unpatentable over Wyman (U.S. Patent No. 5,260,999) in view of Ginter (U.S. Patent No. 5,892,900). Claims 3 and 8 have been canceled thereby rending the above rejection to those claims moot. Additionally, the Applicants have amended independent claims 1, 7 and 19-25 to help further distinguish the present invention from the cited prior art. For example, independent claim 1 (as amended) recites the following features:

"[a] right management system for managing license information that allows usage of content, said right management system comprising:

a content provider that produces the content, said content provider including a first right management device;

a service provider that issues the license information to an end user, said service provider including a second right management device; and

a terminal device for the end user to use the content, wherein said first right management device encrypts the produced content using a content key, and provides the encrypted content to said terminal device ,

wherein said second right management device comprises:

a license information generation unit configured to generate the license information to include a usage condition for allowing usage of the content;

15

a transmission unit configured to transmit the generated license information to said terminal device;

a second range designation obtainment unit;

a second usage condition judgment unit; and

a second validation unit,

wherein said second range designation obtainment unit is configured to obtain edit condition information generated by said first right management device that indicates a range designation of the usage condition, said second usage condition judgment unit is configured to judge whether or not the usage condition is within the range designated in the edit condition information, and said second validation unit is configured to insert the content key, which is a key for decrypting the encrypted content, into the generated license information only when the usage condition is within the range, and

wherein said terminal device comprises:

a reception unit configured to receive the license information from said second right management device;

a range designation obtainment unit configured to obtain the edit condition information generated by said first right management device that indicates the range designation of the usage condition included in the license information;

a usage condition judgment unit configured to judge whether or not the usage condition included in the license information received from said second right management device is within the range designated in the obtained edit condition information; and

a validation unit configured to validate the received license information and decrypt the content using the content key included in the license information only when the usage condition is judged to be within the range, and abandon the received license information when the usage condition is judged not to be within the range." (Emphasis added).

One or more of the features noted above in independent claim 1 are recited in independent claims 7 and 19-25 (as amended). Independent claims 1, 7 and 19-25 have been amended to incorporate respectively the features of dependent claim 3 and 8 (now canceled). Thus, the amendments to independent claims 1, 7 and 19-25 are fully supported by the

16

Applicants' disclosure.

The present invention (as recited in independent claims 1, 7 and 9-25) is distinguishable over the cited prior art in that a content key, which is a key for decrypting the encrypted content, is inserted into the generated license information only when the usage condition is within a range designated in edit condition information. Additionally, when the license information is received by a terminal device, the terminal device decrypts the content using the content key included in the license information only when the usage condition is judged to be within the range.

In the Office Action, the Examiner relies on Wyman in view of Ginter for disclosing or suggesting all the features recited in independent claims 1, 7 and 19-25. However, the Applicants assert that Wyman in view of Ginter fails to disclose or suggest at least the features of independent claims 1, 7 and 19-25, as amended. In particular, the Applicants assert that the cited prior art fails to disclose or suggest the use of the "content key" as recited respectively in the independent claims.

Wyman discloses a license management system to account for software product usage and the use of a management policy having a variety of alternative styles and contexts. Each licensed product upon start-up makes a call to a license server to check on whether usage is permitted, and the license server checks a database of the licenses that it administers. If the particular use requested is permitted, a grant is returned to the requesting user node. Wyman, however, fails to disclose or suggest the use of a "content key," as recited in independent claims 1, 7 and 19-24 (as amended).

Moreover, Ginter fails to overcome the deficiencies noted above in Wyman. Ginter discloses a system and method for electronic commerce including secure transaction management and electronic rights protection. More specifically, electronic appliances help to ensure that information is accessed and used only in authorized ways, so that the integrity and/or confidentiality of the information are maintained. For example, in Ginter, a virtual distribution environment (VDE) is used to protect rights of various participants in electronic commerce and other electronic or electronic-facilitated transactions. As described in Ginter, the VDE can accommodate different control schemes applying to different participants (e.g., individual participants and/or participant classes (types)) in a network of VDE content handling

17

participants.

However, Ginter fails to disclose or suggest a content key, which is a key for decrypting the encrypted content, inserted into the generated license information only when the usage condition is within a range designated in edit condition information. Additionally, Ginter also fails to disclose or suggest that when the license information is received by a terminal device, the terminal device decrypts the content using the content key included in the license information only when the usage condition is judged to be within the range.

Accordingly, the present invention (as recited in independent claims 1, 7 and 19-25) is clearly distinguish from the cited prior art. Based on the above discussion, no combination of Wyman and Ginter would result in, or otherwise render obvious, independent claims 1, 7 and 19-25 (as amended). Likewise, no combination of Wyman and Ginter would result in, or otherwise render obvious, claims 3-7 and 9-18 at least by virtue of their respective dependencies (directly or indirectly) from independent claims 1 and 7.

In light of the above, the Applicants respectfully submit that all the pending claims are patentable over the prior art of record. The Applicants respectfully request that the Examiner withdraw the rejections presented in the outstanding Office Action, and pass this application to issue.

The Examiner is invited to contact the undersigned attorney by telephone to resolve any remaining issues.

Respectfully submitted,

Masahiro OHO et al.

/Mark D. Pratt/

By: 2009.05.11 11:23:34 -04'00'
_____
Mark D. Pratt
Registration No. 45,794
Attorney for Applicants

MDP/ats
Washington, D.C. 20006-1021
Telephone (202) 721-8200
Facsimile (202) 721-8250
May 11, 2009